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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,565	11/15/2001	Anja Drucks	100718- / Beiersdorf 749-	2712
7590	08/25/2004			
Howard C. Lee Norris McLaughlin & Marcus 30th Floor 220 East 42nd Street New York, NY 10017			EXAMINER KIM, JENNIFER M	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,565

Applicant(s)

DRUCKS ET AL.

Examiner

Jennifer Kim

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) 6,8 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,9-11,13,14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/30/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

The amendment filed April 30, 2004 have been received and entered into the application. Amended claim 8 and newly added claim 12 are withdrawn from consideration in view of the election made on August 14, 2003 of wipe comprising oil base solution. It is noted that amended claims 8 and 12 are drawn to oil-free solution.

Action Summary

The objection of claims 1 and 4 is hereby expressly withdrawn in view of Applicants' amendment.

Claims 1, 3, 5, 7, and 9 of record rejected under 35 U.S.C. 103 (a) over Simon (U.S. Patent No. 6,245,322 B1) in view of Brennan et al. (U.S. Patent No. 6,362,781 B1) is withdrawn in view of Applicants' amendment of cancellation of claims 2 and 4 and addition of the limitations in claims 1, 7, 8, and 9.

Applicants' amendment necessitated following new rejections presented in this Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

Art Unit: 1617

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3, 5, 7, 9-11, 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations of claim 1, "(b) the tear strength of the nonwoven material impregnated with the impregnation solution in the machine direction is greater than **4N/50mm** and in the cross direction is greater than **10N/50mm**;" and "(c) the expandability of the nonwoven material impregnated with the impregnation solution in the machine direction is from **15% to 100%** and in the cross direction is from **40% to 120%**"; and the limitations of claim 9, "(b) the tear strength of the nonwoven material impregnated with the impregnation solution in the machine direction is greater than 60N/50mm and in the cross direction is greater than **20N/50mm**;" and "(c) the expandability of the nonwoven material impregnated with the impregnation solution in the machine direction is from **20% to 40%** and in the cross direction is from **50% to 85%**", lack literal support in the specification as filed. This is New **Matter** rejection.

Remaining claims are rejected to the extent that they depend from claims 1 and 9.

Claim Rejections - 35 USC § 103

Art Unit: 1617

Claims 1, 3, 5, 7, 9-11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Simon (U.S. Patent No. 6,245,322 B1) in view of Brennan et al. (U.S. Patent No. 6,361,784 B1).

Simon teaches an emulsion composition comprising silicone oils and oils (lipophilic substance) set forth in claim 3, and auxiliaries or additives and or active ingredients set forth in claim 7 including fragrances, coloring materials, and active agents with viscosity set forth in claim 1. (abstract, column 2, lines 60-61, column 5, lines 30-65). Simon teaches that the composition can be impregnated in a fabric (woven or nonwoven) consisting cleansing wipes intended for dermatological use. (column 5, lines 27-32, column 6, lines 49-56).

Simon does not expressly teach the specific wipe of "water-jet-consolidated and/or water-jet-impressed" set forth in claim 1 and the amounts of ingredients set forth in claim 3.

Brennan et al. teach the non-woven water-jets wipes pre-moistened with oil-in-water emulsion comprising Applicants' silicones and oils set forth in claim 3 and dermatological additives or auxiliaries set forth in claim 7.

It would have been obvious to one of ordinary skill in the art to modify the teachings of Simon to impregnated the emulsion composition of Simon in Brennan et al.'s wipe because Simon teaches the emulsion composition can be impregnated in a fabric including nonwoven and because Brennan et al. teach that Brennan et al.'s wipe can be pre-moisten with the emulsion constitute with same agents as Simon's emulsion. One would have been motivated to make such a modification since the references are

Art Unit: 1617

drawn to same technical feature (dermatological wipe) constituted with same emulsions for the same utility (dermatological use). The amounts of ingredients to be used, the pharmaceutical emulsion forms set forth in claims 4 and 9, e.g., w/O, O/W, W/O/W or O/W/O and optimization of a tear strength and expandability of nonwoven material are all deemed obvious since they are all within the knowledge of the skilled compounding emulsions and represent conventional formulations.

For these reasons the claimed subject matter is deemed to fail to patentably distinguish over the state of the art as represented by the cited references. The claims are therefore properly rejected under 35 U.S.C. 103.

None of the claims are allowed.

Response to Arguments

Applicants' arguments filed April 30, 2004 have been fully considered but they are not persuasive. Applicants essentially argue the prior art does not teach, suggest or provide motivation to one of ordinary skill in the art who has the references before him but not the applicants claims to act as a guide the applicants impregnated wipes as currently claimed as listed in 1-6 in page 6 of the remarks. This is not persuasive because the currently claims have the limitation which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is noted that the limitation "(b) the tear strength of the nonwoven material

Art Unit: 1617

impregnated with the impregnation solution in the machine direction is greater than **4N/50mm** and in the cross direction is greater than **10N/50mm;**" and "(c) the expandability of the nonwoven material impregnated with the impregnation solution in the machine direction is from **15% to 100%** and in the cross direction is from **40% to 120%";** and the limitations of claim 9, "(b) the tear strength of the nonwoven material impregnated with the impregnation solution in the machine direction is greater than 60N/50mm and in the cross direction is greater than **20N/50mm;**" and "(c) the expandability of the nonwoven material impregnated with the impregnation solution in the machine direction is from **20% to 40%** and in the cross direction is from **50% to 85%";** are not supported by the specification as filed. Thus, the claims fail to patentably distinguish over the state of the art as represented by the cited references.

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

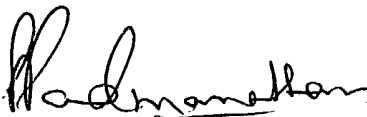
Art Unit: 1617

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kim whose telephone number is 571-272-0628. The examiner can normally be reached on Monday through Friday 6:30 am to 3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sreenivasan Padmanabhan
Supervisory Examiner
Art Unit 1617

Jmk
August 5, 2004